



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/975,600	10/11/2001	Joseph R. Rapisarda	34759.9200	9929

7590 08/01/2005

Daniel R. Pote, Esq.  
SNELL & WILMER L.L.C.  
One Arizona Center  
400 E. Van Buren  
Phoenix, AZ 85004

EXAMINER
----------

CANFIELD, ROBERT

ART UNIT	PAPER NUMBER
----------	--------------

3635

DATE MAILED: 08/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/975,600

Applicant(s)

RAPISARDA ET AL.

Examiner

Robert J. Canfield

Art Unit

3635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 3-5, 7, 14, 15, 17-19, 26-28, 30 and 42-55 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14, 15, 17-19, 42-55 is/are allowed.
- 6) ☒ Claim(s) 3-5, 7, 26-28 and 30 is/are rejected.
- 7) ☒ Claim(s) 18, 46 and 48 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 02 May 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 3635

1. This Office action is in response to the amendment filed 05/02/05. Claims 3-5, 7, 14, 15, 17-19, 26-28, 30 and 42-55 are pending. Claims 1, 2, 6, 8-13, 16, 20-25, 29 and 31-41 have been canceled.

2. The replacement drawing sheet filed 05/02/05 is accepted.

3. Claims 18, 46 and 48 are objected to because of the following informalities: in claim 18 it is unclear why the Markush grouping of shapes is listed when the claim later defines the shape as square, in claim 46 "said insert" lacks antecedent basis (it appears the claim should depend from claim 45 rather than claim 42), and in claim 48 "said columns" lack a proper antecedent basis (it appears the claim should depend from claim 44 rather than claim 42). Appropriate correction is required.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 5 and 28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claims 5 and 28, the phrase "preferentially" renders the claims indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d).

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 3-5 and 26-28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 4,295,810 to Dennert et al.

Dennert provides blocks 1 which may be considered a flooring structure. Each block 1 has a plurality of openings 3. The openings themselves inherently inhibit propagation of vibration. The openings 3 being filled with a foam plastic material 5 which inherently has vibration dampening properties. The “for use” and “for supporting” language of the claims fails to result in a structural difference between the claimed invention and the prior art.

8. Claims 3, 5, 7, 26, 28, 30 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 6-146428.

The Japanese reference provides a concrete floor having a plurality of openings 10 which will inherently inhibit vibration propagation. Some of the holes filled with a fibrous cotton material, which inherently has some vibration dampening properties. Some of the holes are covered with an air impervious member 11.

9. Applicant is advised that should claims 3-5 and 7 be found allowable, claims 26-28 and 30 respectively will be objected to under 37 CFR 1.75 as being a substantial

duplicates thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

10. Claims 14, 15, 17-19, and 42-55 are allowed.

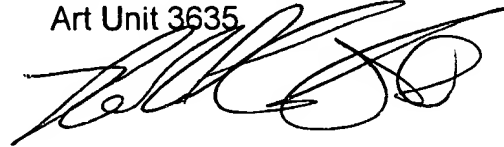
11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. Canfield whose telephone number is 571-272-6440. The examiner can normally be reached on M-Th.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carl Friedman can be reached on 571-272-6842. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Robert J Canfield  
Primary Examiner  
Art Unit 3635



07/21/05